

## **SUBSIDIZED GUARDIANSHIP ASSISTANCE ACT**

### **Act 260 of 2008**

AN ACT to provide for subsidy payments to certain guardians of minors; and to provide for duties and responsibilities of certain state departments and agencies.

**History:** 2008, Act 260, Imd. Eff. Aug. 4, 2008.

*The People of the State of Michigan enact:*

#### **722.871 Short title.**

Sec. 1. This act shall be known and may be cited as the "subsidized guardianship assistance act".

**History:** 2008, Act 260, Imd. Eff. Aug. 4, 2008.

#### **722.872 Definitions.**

Sec. 2. As used in this act:

- (a) "Child" means a person less than 18 years of age.
- (b) "Department" means the department of human services.
- (c) "Eligible child" means a child who meets the eligibility criteria set forth in section 3 for receiving subsidized guardianship assistance.
- (d) "Guardian" means a person appointed by the court to act as a legal guardian for a child pursuant to section 19a or 19c of chapter XIIA of the probate code, MCL 712A.19a and 712A.19c.
- (e) "Legal custodian" means an individual who is at least 18 years of age in whose care a child remains or is placed after a court makes a finding under section 13a of chapter XIIA of the probate code, MCL 712A.13a.
- (f) "Probate code" means the probate code of 1939, 1939 PA 288, MCL 710.21 to 712A.32.
- (g) "Relative" means an individual who is at least 18 years of age and related to the child by blood, marriage, or adoption, as grandparent, great-grandparent, great-great-grandparent, aunt or uncle, great-aunt or great-uncle, great-great-aunt or great-great-uncle, sibling, stepsibling, nephew or niece, first cousin or first cousin once removed, or the spouse of any of the above, even after the marriage has ended by death or divorce. The parent of a man who the court has found probable cause to believe is the putative father if there is no man with legally established rights to the child may be considered a relative under this act but this is not to be considered as a finding of paternity and does not confer legal standing on the putative father.
- (h) "Subsidized guardianship assistance agreement" means an agreement regarding financial support for children who meet the qualifications for subsidized guardianship assistance as specified in this act or in the department's administrative rules.
- (i) "Title IV-E" refers to the federal assistance provided through the United States department of health and human services to reimburse states for foster care and adoption assistance payments.

**History:** 2008, Act 260, Imd. Eff. Aug. 4, 2008.

#### **722.873 Subsidized guardianship assistance; eligibility.**

Sec. 3. A child is eligible to receive subsidized guardianship assistance if he or she is a ward of the court under section 2(b) of chapter XIIA of the probate code, MCL 712A.2, or is under the Michigan children's institute jurisdiction, control, or supervision, and both of the following apply:

- (a) A specific factor or condition, or a combination of factors and conditions, exists with respect to the child so that it is reasonable to conclude that the child cannot be placed with a guardian without providing subsidy payments under this act. The factors or conditions to be considered may include ethnic or family background, age, membership in a minority or sibling group, medical condition, physical, mental, or emotional disability, or length of time the child has been waiting for a permanent home.
- (b) A reasonable but unsuccessful effort was made to place the child with an appropriate guardian without providing subsidy assistance under this act or a prospective placement is the only placement in the best interest of the child.

**History:** 2008, Act 260, Imd. Eff. Aug. 4, 2008.

#### **722.874 Subsidized guardianship assistance; payment to eligible guardian; criteria.**

Sec. 4. A guardian who meets all of the following criteria may receive subsidized guardianship assistance on behalf of an eligible child:

- (a) The guardian is the eligible child's relative or legal custodian.
- (b) The guardian is assessed and approved for subsidized guardianship assistance by the department.

(c) The eligible child resides with the guardian in the guardian's residence.

**History:** 2008, Act 260, Imd. Eff. Aug. 4, 2008.

#### **722.875 Subsidized guardianship assistance; payment to eligible guardian; determination.**

Sec. 5. (1) Subject to the provisions of this act, the department may pay subsidized guardianship assistance to an eligible guardian on behalf of an eligible child.

(2) The guardian shall apply for subsidized guardianship assistance under this act to the department.

(3) The department shall review the eligibility of the guardian and child for continuation of subsidized guardianship assistance annually. The guardian shall provide the eligibility information requested by the department or the court for purposes of the annual review.

(4) The department shall make a determination within 30 days after receipt of a request for subsidized guardianship assistance.

**History:** 2008, Act 260, Imd. Eff. Aug. 4, 2008.

#### **722.876 Subsidized guardianship assistance; prohibition; conditions; notice of termination.**

Sec. 6. (1) The department shall not provide subsidized guardianship assistance after 1 of the following occurs:

(a) The child reaches 18 years of age or 19 years of age if he or she is still attending high school.

(b) The child is incarcerated in an adult correctional facility under a sentence and commitment order of a court of competent jurisdiction.

(c) The child is placed in a child caring institution as that term is defined in section 1 of 1973 PA 116, MCL 722.111, for a period of at least 90 days.

(d) The child is removed from the guardian's residence by court order.

(e) The death of the child.

(f) The child is adopted by the guardian or another individual under the Michigan adoption code, chapter X of the probate code, MCL 710.21 to 710.70, or the adoption laws of any other state or country.

(g) The guardianship is terminated by order of the court having jurisdiction in the guardianship proceeding.

(h) The child no longer resides in the guardian's residence.

(i) The guardian fails to submit to the department information required or requested by the department for the annual review required under section 5.

(j) The guardian no longer satisfies 1 or more of the criteria specified in section 4.

(k) The guardian has failed to comply with section 7.

(l) Upon the death of the guardian, if no new guardian is appointed by the court within 30 days after that death.

(m) The department determines that funds are no longer available to support continuation of subsidized guardianship assistance.

(2) The department shall send notice of termination of subsidized guardianship assistance under this section by mail to the guardian at the guardian's current or last known address and to the court with jurisdiction over the guardianship case. Notice mailed under this subsection shall include a statement of the department's reason for termination.

**History:** 2008, Act 260, Imd. Eff. Aug. 4, 2008.

#### **722.877 Public or private medical insurance or assistance; application and maintenance.**

Sec. 7. The guardian shall apply for and maintain on behalf of the child any public or private medical insurance or assistance for which the child is eligible, including eligibility under applicable laws providing financial assistance for medical or health care expenses.

**History:** 2008, Act 260, Imd. Eff. Aug. 4, 2008.

#### **722.878 Collecting, assembling, and reporting data and information.**

Sec. 8. (1) The department is responsible for collecting, assembling, and reporting all data and information required for reporting purposes.

(2) The guardian shall cooperate with the department and provide all information that the guardian possesses as requested by the department to facilitate compliance with this section.

**History:** 2008, Act 260, Imd. Eff. Aug. 4, 2008.

#### **722.879 Appeal of decision.**

Sec. 9. An applicant for subsidized guardianship assistance under this act or a guardian or child who has received subsidized guardianship assistance under a subsidized guardianship assistance agreement may appeal a decision of the department denying the application, establishing or modifying the subsidized guardianship

assistance, or terminating subsidized guardianship assistance according to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

**History:** 2008, Act 260, Imd. Eff. Aug. 4, 2008.

**722.880 Federal laws and regulations.**

Sec. 10. If title IV-E eligibility is approved as a funding source for subsidized guardianship assistance, the department is subject to all federal laws and regulation requirements, including cooperation with the title IV-B program and assignment of child support.

**History:** 2008, Act 260, Imd. Eff. Aug. 4, 2008.

**722.881 Postpermanency services; eligibility.**

Sec. 11. Families are eligible for postpermanency services in the same manner as adoptive families.

**History:** 2008, Act 260, Imd. Eff. Aug. 4, 2008.